



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,978	07/11/2003	George S. Pantan JR.	PAN-010	2870
23353	7590	09/22/2005	EXAMINER	
RADER FISHMAN & GRAUER PLLC LION BUILDING 1233 20TH STREET N.W., SUITE 501 WASHINGTON, DC 20036			CONLEY, FREDRICK C	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,978

Applicant(s)

PANTON, GEORGE S.

Examiner

FREDRICK C. CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/11 & 7/16</u> | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,715,170 to Richmond in view of U.S. Pat. No. 5,473,784 to Nixon et al., and further in view of U.S. Pat. No. 5,950,627 to Bologovsky et al.

Claim 16, Richmond discloses a method of making a spine board, comprising: injecting foam into the interior of a unitary board structure through an ingress opening (91a,91b) while providing an inherent egress for air from said interior, until said foam fills said interior completely (col. 3-4 lines 59-68 and 1-2). Richmond fails to disclose forming a pair of mating board portions together defining said board and thermo-welding one of said pair to another of said pair to define a hollow unitary board structure. Although not injecting the interior of a board structure with foam, Nixon does disclose forming a pair of mating board portions together and bonding one of said pair to another of said pair to define a hollow unitary board structure (col. 1-2 lines 64-68 & 1). It would have been obvious to form a pair of mating board portions and bond together as taught by Nixon in order to provide a body board with an outer plastic shell which prevents the absorption of blood. The Examiner takes Official notice the it is well known to employ thermo-welding as a bonding means, and it would have been obvious for one having ordinary skill in the art at the time of the invention to employ thermo-welding in order to

Art Unit: 3673

bond the mating board portions of Richmond, as modified, together. Richmond also fails to disclose sealing an ingress opening. Bologovsky discloses a sealing an ingress opening of a spine board (col.8 lines 4-13). It would have been obvious for one having ordinary skill in the art at the time of the invention to seal an ingress opening as taught by Bologovsky in the spine board of Richmond in order to reduce the likelihood that the interior of the board will become a source of infection.

Claim 17, Richmond, as modified, fails to disclose the step of forming including vacuum forming a thermo-plastic material. Nixon discloses the step of forming the board portion is a step of vacuum forming a thermoplastic material (col. 8 lines 14-16)(Nixon). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ the step of vacuum forming a thermoplastic material as taught by Nixon with the board of Richmond in order to form a hard outer plastic shell.

Claim 18, wherein, in the step of injecting foam, said foam inherently adheres to the interior of said unitary board structure, said unitary board structure being corrugated along runners 60 to accept the foam, thereby avoiding delaminating of the structure itself. Corrugated is defined as having alternating groves therefore the grooves formed by runners are interpreted as corrugating the unitary board structure of Richmond.

Claim 19, wherein Richmond, as modified, discloses removing the board structure from the compression press (col. 8 lines 22-23). Richmond fails to disclose positioning said unitary board structure in a secondary mold prior to injecting said foam. Bologovsky discloses positioning a board structure in a secondary mold prior to injecting said foam (col. 7-8 lines 65 & 1-3). It would have been obvious to one having ordinary skill in the

Art Unit: 3673

art at the time of the invention to place the unitary board structure of Richmond in a secondary mold as taught by Bologovsky in order to prevent the spine board from distorting under the injection and expansion pressures of the urethane foam.

Claim 20, wherein said foam is urethane foam (col. 3 line 68)(Richmond).

Response to Arguments

Applicant's arguments filed 7/16/05 have been fully considered but they are not persuasive.

With regards to the Applicant's argument, the Applicant's declaration under 37 C.F.R. 1.131 does not sufficiently demonstrate completion of the Applicant's invention prior to provisional application 60/380,715 filed May 15, 2002. A general allegation that the Applicant's invention was completed prior to the provisional application filed May 15, 2002 is not sufficient. Similarly, a declaration by the inventor to the effect that his or her invention was conceived or reduced to practice prior to the reference date, without a statement of facts demonstrating the correctness of this conclusion, is insufficient to satisfy 37 CFR 1.131. In order to demonstrate completion of the invention prior to the provisional application filed on May 15, 2002 the Applicant must provide supporting statements by witnesses, where verbal disclosures are the evidence relied upon.

Where interference testimony is used, the applicant must point out which parts of the testimony are being relied on. The declaration must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice

Art Unit: 3673

"amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b). In re Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. Applicant needs to provide another copy of Exhibit A since it has not been included in the declaration filed 07/16/04. With regards to Exhibit B, the hand written description of features the applicant is relying on does not demonstrate how completion of his or her invention is prior to the May 15, 2002. Furthermore, it's unclear how these features demonstrate the Applicant's claim of injecting foam into the interior of a unitary board structure through an ingress opening, providing egress for air from said interior until said foam fills said interior completely, forming a pair of mating board portions, and thermo-welding one of said pair to another.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3673


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 571-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



HEATHER SHACKELFORD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600